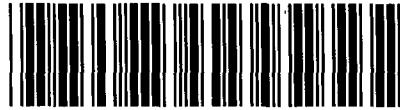


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**APPLICATION OF RIO CONCHO
AVIATION, INC. FOR A
RATE/TARIFF CHANGE**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

ORDER

This Order addresses the application of Rio Concho Aviation, Inc. for rate and tariff changes. Rio Concho is a class C water utility, electing to file a class B application with the Commission, as permitted under TWC § 13.1872(c). Rio Concho requests a revenue requirement of \$151,097.22, which includes \$1,793.91 in rate-case expenses that Rio Concho states that it agrees to separately surcharge.¹

After a hearing on the merits, a proposal for decision was issued by the State Office of Administrative Hearing (SOAH) administrative law judges (ALJs). The ALJs recommended a revenue requirement of \$91,210 after disallowing expenses determined to be unreasonable and unnecessary. The SOAH ALJs' recommended disallowances would decrease the rates established in Rio Concho's last rate case, Docket No. 43728.²

The Commission agrees with the majority of the ALJs' determinations in the proposal for decision. However, the Commission disagrees with and rejects the ALJs' conclusions regarding adjustments to Rio Concho's transportation expenses, employee-benefit expenses, office-rent expenses, meter-reading expenses, and Rio Concho's expenses related to its Audi internet hotspot. The Commission's decisions result in a revenue requirement of \$114,492, a slight increase over the revenue requirement established in Rio Concho's last rate case.³ Further, the Commission concludes that Rio Concho is not entitled to reimbursement of rate-case expenses because the

¹ Direct Testimony of Randal Manus, Rio Concho Aviation Ex. 4 at 7, 28 Exhibit RCA-4A.

² *Application of Rio Concho Aviation, Inc., for a Water or Wastewater Tariff Rate/Tariff Change*, Order (Dec. 18, 2015).

³ Commission Staff's Number Runs at 5 (May 12, 2017).

increase in Rio Concho's revenue that the Commission is approving in this proceeding is less than 51% of the increase that would have been generated by Rio Concho's proposed rates.⁴

Except as discussed in this Order, the Commission adopts the proposal for decision, including findings of fact and conclusions of law. The Commission makes additional changes to findings of fact and conclusions of law to correct citations, spelling, numbering, and punctuation and for stylistic purposes. Furthermore, the Commission divides and renumbers some findings of fact for clarity and readability purposes.

I. Discussion

A. Procedural findings

The parties agreed to implement interim rates for Rio Concho, effective January 16, 2017, subject to refund or surcharge consistent with the Commission's final decision in this docket. The Commission modifies finding of fact 13 and adds finding of fact 13A to reflect the implementation of interim rates. Further, Rio Concho agreed to extend the effective date of its rates to June 15, 2017. The Commission adds finding of fact 15F to reflect the effective-date extension. In addition, the Commission adds finding of fact 15E to reflect its instruction to Commission Staff to conduct two additional numbers runs in accordance with the Commission's discussions at the May 4, 2017 open meeting.

B. Motion to withdraw application

After the issuance of the proposal for decision, Rio Concho filed a motion to withdraw its application, asserting in part that the recommendations contained in the proposal for decision would decrease Rio Concho's revenue.⁵

After a proposal for decision has been issued, an application may not be withdrawn unless the Commission finds good cause.⁶ In ruling on the motion to withdraw, the Commission will "weigh the importance of the matter being addressed to the jurisprudence of the commission and

⁴ See 16 Tex. Admin. Code § 24.33(b).

⁵ Rio Concho's Motion to Withdraw, Exhibit A at 1 (Apr. 13, 2017).

⁶ 16 TAC § 22.181(g)(3).

the public interest,” which is a higher burden than applied to a withdrawal request made earlier in a proceeding.⁷

The Commission concludes that Rio Concho has not established good cause for withdrawal. Rio Concho wishes to withdraw its application because it disagrees with the ALJs’ recommendations that would reduce its revenue requirement; a potential decrease in revenue is not good cause for withdrawal.

The Commission recognizes that it previously allowed withdrawal of an appeal of a change in rates after parties reached a unanimous settlement regarding rates following the issuance of a proposal for decision.⁸ However, the Commission permitted withdrawal of that appeal because the Commission has limited regulatory authority over a member-owned, member-controlled water supply corporation. In contrast, Rio Concho’s motion to withdraw its application was opposed by the intervening ratepayers and Commission Staff. Further, Rio Concho is a retail water utility over which the Commission has original jurisdiction over rate setting. In this proceeding, the Commission must determine and fix Rio Concho’s rates if its current rates are unreasonable or in violation of the law.⁹ Additionally, the Commission is charged with ensuring that Rio Concho’s rates are just and reasonable, while still providing Rio Concho a reasonable opportunity to earn a reasonable return on its invested capital, plus recovery of all reasonable and necessary expense.¹⁰ Further, the Commission must set rates that will preserve Rio Concho’s financial integrity.¹¹

Accordingly, consistent with the Commission’s duties under rate-setting provisions of the Texas Water Code and rules adopted thereunder, the Commission will set Rio Concho’s rates. Foregoing a rate-setting decision at this juncture would disregard the Commission’s responsibility of regulating retail public utilities to assure that its rates are just and reasonable to its customers and to the utility. The Commission adds finding of facts 15A and 15B to show when the proposal for decision was issued and when Rio Concho filed its motion to withdraw. To reflect denial of

⁷ *Id.*

⁸ *Ratepayers’ Appeal of the Decision by North San Saba Water Supply Corporation to Change Rates*, Docket No. 45283, Order (Apr. 3, 2017).

⁹ Tex. Water Code (TWC) § 13.1871(o) (West 2008 & Supp. 2016).

¹⁰ TWC §§ 13.182(a), 13.183(a).

¹¹ TWC §13.183(a)(2).

Rio Concho's motion to withdraw, the Commission adds findings of fact 15C and 15D, and conclusion of law 4A.

C. Audi Q5 depreciation

The Brunsons, who own and operate the utility, purchased a used Audi Q5 SUV and asserted that it was acquired on December 31, 2014, the day before the beginning of Rio Concho's test year.¹² Rio Concho requested \$4,920 in annual depreciation expenses, based on a five-year service life for the Audi Q5. The ALJs concluded that the Audi Q5 is Ms. Brunson's personal vehicle and recommended removing \$24,600 from depreciation expenses.

The Commission agrees with the ALJs that the Audi Q5 is Ms. Brunson's personal vehicle, but would further note that the Audi Q5 is not part of Rio Concho's plant used and useful in the provision of utility service. Because the Audi Q5 is not part of Rio Concho's used and useful utility plant, the Commission agrees with the ALJs' conclusion that \$24,600 should be removed from Rio Concho's depreciation schedule. Accordingly, the Commission modifies finding of fact 31.

D. Transportation expenses

Rio Concho requested a total of \$3,971.22 in transportation-related expenses, including known and measurable changes to test-year expenses, for mileage, gasoline, repairs, and other operating expenses for the Audi Q5. Rio Concho calculated this amount by recording the mileage from its home office to its airfield office, as well as routes between the home office and the bank, Walmart stores, laboratory, and post office. Based on these mileage calculations, Rio Concho concluded that 60% of the total transportation expenses of the Audi Q5 incurred during the test year should be allocated to the utility and included in Rio Concho's application.¹³

Commission Staff asserted that because only one office is necessary, the miles traveled from the Brunson home to the airfield are commuter miles.¹⁴ Commission Staff asserted that businesses do not generally pay the commuting miles of their employees, and the IRS does not

¹² Direct Testimony of Barbie Brunson, Rio Concho Ex. 1 at 23.

¹³ Application of Rio Concho Aviation, Rio Concho Ex. 2 at 18, 49.

¹⁴ Direct Testimony of Debi Loockerman, Staff Ex. 3A at 13.

allow commuting miles to be included as a business expense.¹⁵ Therefore, Commission Staff recommended a reduction in transportation expenses of \$1,108 based on Rio Concho's mileage calculations and the IRS's standard mileage rate.¹⁶ If adopted, Commission Staff's recommendation would result in transportation expenses totaling \$2,863.

A group of ratepayers who participated in the proceeding supported Staff's recommendation and also filed testimony questioning the adequacy of some of the documentation of Rio Concho's transportation-expense request.¹⁷ Furthermore, the ratepayers asserted that the mileage calculations failed to take into account a bank branch and post office located much closer to the airfield.¹⁸

The SOAH ALJs recommended that the Commission adopt the \$1,108 reduction recommended by Commission Staff, as well as additional reductions totaling \$956 to take into account the closer locations of the bank and post office.¹⁹

The Commission agrees with the ALJs' conclusion to adopt Commission Staff's recommendation related to Ms. Brunson's commute from her home to the airfield office, as the recovery of commuter miles is generally not permitted as a utility expense. However, the Commission disagrees with the ALJs' conclusion to make further reductions to Rio Concho's transportation expenses. The Commission declines to micromanage utility decisions such as which locations should be used for banking and mailing. Accordingly, Rio Concho should recover \$2,863 in transportation expenses. The Commission modifies the transportation-expense entry in finding of fact 16, modifies finding of fact 21, and adds finding of fact 21A to reflect the Commission's determination of Rio Concho's reasonable and necessary transportation expenses.

E. Employee-benefit expenses

Rio Concho listed \$6,360 for test-year pension and other benefits, with an additional increase of \$7,428 in known and measurable changes, for a total requested amount of \$13,788.

¹⁵ *Id.*

¹⁶ *Id.* at 13-14.

¹⁷ Direct Testimony of Jeffrey Sheets, Ratepayers Ex. 17 at 10, 13; Ratepayers spreadsheet of gas receipts, Ratepayers Ex. 13.

¹⁸ See Proposal for Decision at 23; Ratepayers' Initial Brief at 8 (Jan 11, 2017).

¹⁹ Proposal for Decision at 23-25.

Rio Concho's request included expenses related to retirement contributions, a life insurance policy, and health insurance, all for Ms. Brunson who manages and operates all aspects of the water utility. Ms. Brunson is responsible for the purchase of capital equipment and supplies, maintaining equipment, reading water meters, installing meters and backflows, performing disconnects and reconnects, quality assurance, completing regulatory reports, billing, customer service, handling water-system repairs, and hiring necessary outside contractors.²⁰

The ALJs concluded that Rio Concho's request for employee benefits is unreasonable and recommended reducing Rio Concho's employee-benefit expenses by the entire amount of Rio Concho's request. The ALJs concluded that because Rio Concho is a class C utility, Rio Concho should pay for employee benefits out of its profits instead of shifting the cost to ratepayers.

The Commission disagrees with the ALJs' conclusion that Rio Concho's request to recover \$13,788 in employee-benefit expenses is unreasonable. A utility is entitled to recover its reasonable and necessary expenses related to its employee benefits, including expenses for health insurance, life insurance, and retirement contributions. Ms. Brunson is the key employee of Rio Concho and the utility proved to the Commission that the requested employee-benefit expenses are reasonable and necessary. Accordingly, Rio Concho should recover its requested \$13,788 in employee-benefit expenses. The Commission modifies the employee-benefit expense entry in finding of fact 16 and modifies finding of fact 22 to reflect its determinations regarding Rio Concho's employee-benefit expenses.

F. Office-rent expenses

Rio Concho maintains two offices: a main office, which is located at the Brunson home and a satellite office located at the airfield to which it provides service. Rio Concho requested the inclusion of the expenses to rent the airfield office, totaling \$6,000 annually. Rio Concho rents the airfield office space from an affiliated entity, Barbie Land Development, for \$500 per month, including utilities.

In order to recover affiliate-transaction expenses, payments made to an affiliate must be reasonable and necessary, must be supported by specific statements setting forth the cost of each

²⁰ Direct Testimony of Barbie Brunson, Rio Concho Ex. 1 at 3.

item to the affiliate, and must find that the price to the utility is no higher than prices charged by the affiliate to its other affiliates, or to unaffiliated persons or corporations.²¹

Rio Concho argues that it has satisfied the affiliate-transaction standard because Barbie Land charges less than market value for its lease to Rio Concho. Rio Concho argues that the market value for inferior office spaces close to, but not at the airfield, are at least \$800 without utilities. In support of this assertion, Rio Concho points to a multiple-listing service listing for available rentals from a licensed realtor, with prices range from \$500 to \$1,850. Of the 22 listings shown, 12 are greater than or equal to \$800.²²

The ratepayers question the \$6,000 per year expenses paid by Rio Concho to Barbie Land, arguing that this setup allows Rio Concho to expense rent payments to the water ratepayers while simultaneously increasing the revenue for Barbie Land. Further, the ratepayers question whether the airfield office is necessary at all.

The ALJs concluded that none of Rio Concho's office-rent expenses should be in Rio Concho's revenue requirement because Rio Concho failed to meet the standard for recovering an affiliate-transaction expense. The ALJs concluded that a multiple-listing service listing comparing other office spaces for lease in the area is not enough to meet the affiliate-transaction standard. Further, the ALJs determined that because the airfield office is located within an airport hangar, the office space is probably worth less to an unaffiliated entity than the lowest rental price listed on the multiple-listing service listing—\$500—so the \$500 charge to Rio Concho is not persuasive.

The Commission weighs the evidence differently and concludes that Rio Concho met the affiliate-transaction standard. Rio Concho's \$6,000 in office-rent expenses for the airfield office is necessary and reasonable because it would be unreasonable to require an affiliate to provide office space for free. The lowest rental price in the record was \$500 per month. Further, Rio Concho provided evidence showing that most office spaces for lease in the area are offered for

²¹ TWC § 13.185(e).

²² Direct Testimony of Randal Manus, Rio Concho Ex. 4 at 17; Price listing of real estate, Rio Concho Ex. 10.

\$800 per month or more and in some cases the rent does not include utilities.²³ Accordingly, \$6,000 in office-rent expenses shall be included in Rio Concho's revenue requirement.

Regarding the ratepayers' contention that the airfield office is not necessary, a utility must maintain an office in the county or within 20 miles of where the utility provides service.²⁴ The Brunson's home office does not satisfy this requirement because it is located more than 20 miles from the Hicks Airfield.²⁵ Thus, the airfield office is necessary.

The Commission modifies the office-rentals entry in finding of fact 16, deletes finding of fact 29, and adds findings of fact 29A through 29E and conclusion of law 9A to reflect its determinations regarding Rio Concho's office-rent expenses.

G. Meter-reading expenses

Rio Concho requests a total of \$28,457 for contract-labor expenses. One of the contested contract-labor expenses is for payments that Rio Concho makes to the Brunson children and two of their friends for monthly meter reading. Rio Concho requests \$2,130 in test-year meter-reading expenses for payments to the Brunson's children and their friends. In addition, Rio Concho requests an additional \$1,470 in known-and-measurable changes.²⁶ Thus, Rio Concho's total requested meter-reading expense is \$3,600.

The ALJs recommended a disallowance of \$3,600 in meter-reading expenses, the entire amount of Rio Concho's request because Rio Concho did not prove that payments to the Brunson children and friends to read meters are a reasonable and necessary expense. In addition, the ALJs concluded that Ms. Brunson's duties include meter reading and her testimony does not support making additional payments for this service. Regarding Rio Concho's request for known and measurable changes, the ALJs concluded that there is no evidence in the record to support the cost increase.

²³ Direct Testimony of Randal Manus, Rio Concho Ex. 4 at 17; Price listing of real estate, Rio Concho Ex. 10.

²⁴ 16 TAC § 24.81(d).

²⁵ Direct Testimony of Debi Loockerman, Staff Ex. 3A at 11.

²⁶ Application at 49.

The Commission agrees with the ALJs conclusion regarding the \$1,470 in known-and-measurable changes. Rio Concho failed to meet its burden to prove any known-and-measurable changes in meter-reading expenses. However, the Commission disagrees with the ALJs' conclusion regarding Rio Concho's test-year meter-reading expenses as the record reflects that Rio Concho proved that meter reading is a necessary activity of the utility and Rio Concho's test-year meter-reading expense is reasonable and necessary. Further, Ms. Brunson obtained a meter-reading quote from a third party and was quoted approximately \$850 per month, or \$10,200 annually.²⁷ Rio Concho's test-year meter-reading expense is reasonable in comparison to the quote. Accordingly, Rio Concho should recover its test-year meter-reading expenses of \$2,130, which raises the total amount of its contract-labor costs to \$13,580.

Consistent with this discussion, the Commission modifies the contract-labor entry in finding of fact 16, modifies finding of fact 20, including changing the amount of the contract-labor adjustment, and adds finding of fact 20A to reflect this determination.

H. Audi-connect expenses

As part of its miscellaneous expenses, Rio Concho requested the recovery of \$180 paid for an Audi-connect system, an infotainment system associated with the Audi Q5 that provides internet service via a hotspot, information about traffic and weather, and directions. The ALJs concluded that this expense has nothing to do with provision of water service and recommended disallowing recovery of this expense.

The Commission disagrees with the ALJs' conclusion because Rio Concho showed that when Ms. Brunson works at Rio Concho's office at the airfield she connects to the internet using the Audi-connect system. It is reasonable and necessary for a water utility's office to have access to the internet. Accordingly, Rio Concho should recover \$180 related to the Audi-connect system, which raises the recovery of its total miscellaneous costs to \$3,927. The Commission modifies the miscellaneous-expense entry in finding of fact 16, modifies finding of fact 27, and adds finding of fact 27A to reflect this determination.

²⁷ Direct Testimony of Barbie Brunson, Rio Concho Ex. 1 at 19.

I. Rate-case expenses

Rio Concho requested recovery of \$108,156 for its rate-case expenses. A utility may recover rate-case expenses, including attorney fees, incurred as a result of filing a rate-change application under TWC §13.1871, only if the expenses are just, reasonable, necessary, and in the public interest.²⁸ However, a utility may not recover any rate-case expenses if the increase in revenue generated by the final rate determined by the Commission after hearing is less than 51% of the utility's requested rate increase.²⁹

Rio Concho requested rates that would generate revenues of \$148,761, a \$35,736 increase from its previous revenues of \$113,025.³⁰ Thus, in order for Rio Concho to be eligible to recover its rate-case expenses, Rio Concho's new revenues generated from rates would have to include an increase of at least \$18,225.36 ($\$35,736 \times .51 = \$18,225.36$). However, Rio Concho's new rates are designed to generate revenues of \$114,492,³¹ an increase of \$1,467 from Rio Concho's prior revenues. Therefore, Rio Concho is not entitled to recover its requested rate-case expenses of \$108,156 because Rio Concho's final revenue increase is less than 51% of its requested increase.

The Commission deletes findings of fact 43 and 45, adds findings of fact 43A–43F, and modifies conclusion of law 11 to reflect that Rio Concho is unqualified to recover from ratepayers its rate-case expenses. The Commission also modifies finding of fact 42 to reflect the rates it adopts.

The Commission adopts the following findings of fact and conclusions of law:

II. Findings of Fact

General and Procedural Findings

1. Rio Concho Aviation, Inc. is a class C water utility that provides water service to 243 connections at Hicks Airfield Fixed Based Operations in Fort Worth, Tarrant County, Texas.

²⁸ 16 TAC § 24.33(a).

²⁹ 16 TAC § 24.33(b).

³⁰ Commission Staff's Number Runs at 5 (May 12, 2017).

³¹ *Id.*

2. Rio Concho has two owners and shareholders, Kevin and Barbie Brunson.
3. Rio Concho holds water certificate of convenience and necessity number 12835.
4. On March 22, 2016, Rio Concho filed a class B rate/tariff change application with the Public Utility Commission of Texas.
5. The application uses a test year of January 1, 2015, through December 31, 2015.
6. Rio Concho mailed notice of the proposed rate change to all of its customers on or about March 19, 2016.
7. Between March 28 and April 13, 2016, over 40 Rio Concho customers filed protests of the proposed rate change.
8. The application was found to be administratively complete on April 25, 2016.
9. On April 26, 2016, the Commission referred this case to the State Office of Administrative Hearings (SOAH) for a contested case hearing.
10. On May 23, 2016, the Commission issued its preliminary order identifying 39 issues to be addressed in this proceeding.
11. On June 17, 2016, Administrative Law Judge (ALJ) Lilo D. Pomerleau convened a prehearing conference in Austin, Texas. The following appeared and were admitted as the parties in this case: Rio Concho; Stephen Grace, Jeff Sheets, Roy R. Geer, and Mike Olson; and Commission Staff.
12. The hearing on the merits convened on December 5, 2016, and concluded the next day.
13. Rio Concho requested an extension of its effective date to August 23, 2016, which extends the 265-day extension period to May 16, 2017, and a request to relate back rates to April 26, 2016. The parties subsequently agreed to a modification of the relate-back date of January 16, 2017.
- 13A. On January 16, 2017, Rio Concho's current rates became interim rates subject to refund or surcharge.

14. On December 19, 2016, the ALJs granted Rio Concho's request for an extension of its effective date and a relate-back date of January 16, 2017, and established a jurisdictional deadline of May 16, 2017.
15. The parties filed initial briefs on January 11, 2017, and reply briefs on January 25, 2017, which is when the record closed.
- 15A. On March 23, 2017, the SOAH ALJ issued the proposal for decision.
- 15B. On April 13, 2017, after the issuance of the proposal for decision, Rio Concho filed a motion to withdraw its application, citing in part that the recommendations in the proposal for decision would decrease Rio Concho's income.
- 15C. A risk of a decrease in revenue is not good cause for withdrawal.
- 15D. Rio Concho has not established good cause for withdrawal of its rate application.
- 15E. At its May 4, 2017 open meeting, the Commission instructed Commission Staff to conduct two additional number runs to reflect the Commission's discussion at the open meeting.
- 15F. At the May 4, 2017 open meeting, Rio Concho agreed to extend the effective date of its rate by 30 days. The effective date of Rio Concho's rates is now June 15, 2017.

Revenue Requirement

16. The following expenses are reasonable and necessary to provide service to the ratepayers:

Category	Amount
Power expense	\$3,048
Other volume related expense	\$1,620
Total volume related expense	\$4,668
Employee labor	\$41,568
Materials	\$3,515
Contract work	\$13,580
Transportation expense	\$2,863
Employee pensions and benefits	\$13,788
Office rentals	\$6,000
Office supplies and expenses	\$7,417
Professional services	\$1,512
Insurance	\$2,446
Regulatory expense	\$595
Miscellaneous expense	\$3,927
Total non-volume related expenses	\$97,211
Total operating expenses	\$101,879

17. Rio Concho's requested expenses of \$3,048 in power-expense production and other volume-related expenses of \$1,620 are reasonable and necessary and should be included in rates.
18. Rio Concho's requested expenses for Ms. Brunson's salary of \$41,568 is reasonable and necessary and should be included in rates.
19. Rio Concho's requested expense of \$3,515 in materials is reasonable and necessary and should be included in rates.
20. Rio Concho's requested expenses of \$28,457 for contract labor should be adjusted by \$14,607 to reflect unreasonably high compensation to Mr. Brunson, unproven expenses charged by Randal Manus, and expenses that lacked documentation or explanation.
- 20A. Rio Concho's requested test-year meter-reading expenses of \$2,130 is reasonable and necessary and should be included in rates.
21. Rio Concho's requested transportation expenses included commuting costs, which are unreasonable and unnecessary.

- 21A. Transportation expenses based on reasonable mileage of \$2,863 are reasonable and necessary and should be included in rates.
- 22. Rio Concho's requested employee benefit expenses of \$13,788 are reasonable and necessary for the provision of water service.
- 23. Rio Concho's requested expenses of \$7,462 for office supplies and expenses should be reduced by \$45 because expenses for August 2015 school supplies and food supplies are not reasonable or necessary.
- 24. Rio Concho's requested professional services expense of \$1,675, should be adjusted to \$1,512, as agreed to by Rio Concho, to account for shared costs of tax return preparation with other businesses owned by the Brunsons.
- 25. Rio Concho's requested reasonable and necessary insurance expenses of \$2,526 should be reduced to account for the actual cost of the liability premium.
- 26. Rio Concho's requested regulatory expense of \$595 is reasonable and necessary.
- 27. Rio Concho's requested miscellaneous expenses of \$7,031 should be reduced by \$3,104 because a clothing allowance, retail membership costs, travel expenses (which include meals for personnel other than Ms. Brunson, valet parking, and room service), and cell phone expense for two cell phones without documentation were not proven to be reasonable and necessary expenses.
- 27A. Rio Concho's requested \$180 expense for the Audi-connect system is reasonable and necessary and should be included in rates.

Affiliated Transactions

- 28. Rio Concho requested recovery of \$6,000 for office rentals for leasing at a cost of \$500 per month from Barbie Land Development, an affiliate of Rio Concho, an office within a hangar located at the airfield.
- 29. [DELETED]
- 29A. Most other office spaces near the airfield are offered for \$800 per month, some of which do not include the cost of utilities.

- 29B. The least expensive office rental in the record was \$500 per month, which is the same amount of rent that Rio Concho pays Barbie Land Development to rent the airfield office.
- 29C. A utility is required to maintain an office in the county or within 20 miles of where the utility provides service.
- 29D. Rio Concho's office at the Brunson home is located more than 20 miles from the Hicks Airfield. Thus, the airfield office is necessary.
- 29E. Rio Concho's requested airfield-office-rental expenses of \$6,000 is reasonable and necessary.

Depreciation Expense

- 30. The golf cart and 1995 Ford dually truck are used and useful to Rio Concho for the provision of water service.
- 31. The Audi Q5 SUV is a personal vehicle owned by Ms. Brunson and is not part of Rio Concho's plant used and useful in the provision of utility service.
- 32. Paving costs of \$6,000 are not necessary for the provision of water service.
- 33. A television, wall mount, antenna, video player, DVD, office chairs, lamp, and sideboard are not reasonable or necessary for the provision of water service and should be excluded.

Taxes Other than Federal Income Taxes

- 34. Rio Concho's reasonable and necessary annual property and other non-income taxes total \$4,693.

Federal Income Taxes

- 35. Rio Concho's reasonable and necessary annual federal income taxes total \$757.

Other Revenues

- 36. Rio Concho's annual other revenues total \$2,336.

Rate Base

37. Rio Concho's invested capital or rate base is:

Item	Amount
Plant in service—original cost	\$178,117
Accumulated depreciation	(\$115,762)
Net book value	\$62,355
Working cash allowance	\$12,769
Total rate base (total invested capital)	\$75,124

Rate of Return

38. A reasonable return on equity for Rio Concho, based on a discounted cash flow analysis and consistent with Rio Concho's business and regulatory risk, is 8.48%.
39. Rio Concho has no debt. It is reasonable to assign a cost of debt of 5.03%, based on the average rate for Baa utility bonds for every month of the 2015 test year.
40. It is reasonable to assign Rio Concho a capital structure of 50% debt and 50% equity, which is similar to the structure reported by the Value Line Investment Survey water proxy group.
41. Rio Concho's overall rate of return should be set as follows:

Component	Cost	Weighting	Weighted Cost
Debt	5.03%	50%	2.52%
Equity	8.48%	50%	4.24%
Overall			6.76%

Rate Design

42. The following rate structure will recover Rio Concho's revenue requirement.

Monthly Minimum Charge by Meter Size

Size in inches	Charge
5/8	\$29.02

Charges Per 1,000 Gallons

Size in inches	Charge
5/8 x 3/4	\$6.63

Rate Case Expenses

- 43. [DELETED]
- 43A. Rio Concho requested recovery of \$108,156 for its rate-case expenses.
- 43B. Rio Concho's previous base-rate revenues were \$113,025.
- 43C. Rio Concho's requested base-rate revenues of \$148,761, an increase of \$35,736 from its prior revenues.
- 43D. In order to be eligible to recover its rate-case expenses, Rio Concho's final base-rate revenues would need to include an increase of at least \$18,225.36.
- 43E. The Commission is setting rates designed to generate base-rate revenues of \$114,492, an increase of \$1,467.
- 44. Rate-case expenses in this case are not a normal, recurring expense of Rio Concho's operations.
- 45. [DELETED]

III. Conclusions of Law

- 1. Rio Concho is a retail public utility as defined in Texas Water Code § 13.002(19) and a utility as defined by Texas Water Code § 13.002(23).
- 2. The Commission has jurisdiction over Rio Concho's application for a rate increase pursuant to Texas Water Code §§ 13.041, 13.043(b), 13.181–.185, 13.1871, and 13.1872 and 16 Texas Administrative Code chapter 24, subchapter B.
- 3. All required notices of the application and the contested case hearing were given as required by law. Tex. Water Code § 13.187; Tex. Gov't Code §§ 2001.051, .052.
- 4. The ALJs conducted a contested case hearing and proposed a decision on the application under the authority of chapter 2003 of the Texas Government Code and chapter 13 of the Texas Water Code.
- 4A. Rio Concho has not established good cause for withdrawal of its rate application as required under 16 TAC § 22.181(g)(3).

5. Rio Concho bears the burden of proof that its proposed rates are just and reasonable. Tex. Water Code § 13.184(c).
6. In compliance with Texas Water Code § 13.183, and based on the findings of fact and conclusions of law, Rio Concho's overall revenues approved in this case permit Rio Concho a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses.
7. Based on the findings of fact and conclusions of law, a rate of return of 6.76% will permit Rio Concho a reasonable opportunity to earn a reasonable return on its invested capital. Tex. Water Code § 13.184.
8. Consistent with Texas Water Code § 13.185, the rates approved in this case are based on original cost, less depreciation, of property used and useful to Rio Concho's provision of service.
9. Payment to affiliated interests for costs of any services, or any property, right or thing, or for interest expense may not be allowed either as capital cost or as expense except to the extent that the regulatory authority finds that payment to be reasonable and necessary. A finding of reasonableness and necessity must include specific statements setting forth the cost to the affiliate of each item or class of items in question and a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations. Tex. Water Code § 13.185(e).
- 9A. Rio Concho met its burden under Texas Water Code § 13.185(e) to show that the price paid to its affiliate for rental of the airfield office is no higher than rental prices charged by others in the area to unaffiliated persons or corporations.
10. The rates approved in this case are just and reasonable, comply with the ratemaking provisions in Texas Water Code chapter 13, and are not unreasonably discriminatory, preferential, or prejudicial.

11. Rio Concho may not recover any rate case expenses because, after a contested case hearing, the increase to Rio Concho's revenue is less than 51% of the increase in revenue proposed by Rio Concho. 16 Tex. Admin. Code § 24.33.

IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Rio Concho's motion to withdraw its application is denied.
2. Rio Concho's application to modify its rates and tariff is granted to the extent consistent with this order.
3. The Commission sets Rio Concho's just and reasonable rates consistent with the findings of fact and conclusions of law.
4. Within 10 days of the issuance of this Order, Rio Concho shall file with the Commission's filing clerk a copy of its tariff with the approved rates.
5. Rio Concho shall refund the amount by which the current rates exceeded rates approved by this Order for the time period between January 16, 2017, and the date the rates approved in this Order become effective. The refund shall be made over the same time period in which the rates have been charged. Refunds related to Rio Concho's application in this docket shall be implemented in Docket No. 47267, *Compliance Docket Related to Refunds in Docket No. 45720*.
6. All other motions, requests of entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 29th day of June 2017.

PUBLIC UTILITY COMMISSION OF TEXAS


KENNETH W. ANDERSON, JR., COMMISSIONER


BRANDY MARTY MARQUEZ, COMMISSIONER

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